



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

201405031

NOV 04 2013

**Uniform Issue List: 402.00.00**

T. EP. RA. T3

**Legend:**

Taxpayer A	=
Institution A	=
Plan A	=
IRA X	=
Amount A	=
Amount B	=
Financial Institution A	=
Financial Institution B	=
Country A	=

Dear \*\*\*\*,

This is in response to your request, dated October 15, 2012, as supplemented by correspondence dated May 14, 2013, and October 17, 2013, in which your authorized representative, on your behalf, requested a waiver of the 60-day rollover requirement contained in section 402(c)(3)(A) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested:

Taxpayer A represents that he received a distribution from Plan A totaling Amount A of which he elected to roll over Amount B. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 402(c)(3) of the Code was due to his obligation to care for his ailing father, whose medical condition worsened around the time of the distribution and during the 60-day period. Taxpayer A further represents that Amount B has not been used for any other purpose.

Taxpayer A resigned from Institution A in May 2011. At the time he was living in Country A, where he had requested assignment in 1996 so that he might be close to his elderly and ailing parents. In connection with his resignation he requested a distribution from Plan A. On June 23, 2011, Taxpayer A received a wire transfer, of Amount A, into his account at Financial Institution A in the United States. A 1099-R issued to Taxpayer A for 2011 shows a gross distribution of Amount A and a taxable distribution of Amount B. The 1099-R shows the Taxpayer A's address as in Country A.

Taxpayer A represents that it was his intention to roll over the distribution to an Individual Retirement Account ("IRA") but it was not possible for him to open an IRA in the United States without traveling there in person. As Taxpayer A did not have an existing IRA account it was not possible to complete a direct rollover by issuance of a check to the custodian of the IRA in compliance with Treas. Reg. § 1.401(a)(31).

Taxpayer A represents that he intended to travel to the United States within 60 days of the distribution to open an IRA account and roll over the distribution but was prevented from doing so because of the need to care for his elderly parents whose condition worsened around the time of the distribution. Taxpayer A has submitted documentation showing that his father suffered a stroke in May 2011 for which he was hospitalized. The stroke aggravated other medical conditions such that Taxpayer A was unable to leave him alone for an extended period.

In May 2012, Taxpayer A was able to travel to the United States and on May 31, 2012 transferred Amount B to a rollover IRA ("IRA X") with Financial Institution B.

Based on the facts and representations, you request a ruling that the Internal Revenue Service (the "Service") waive the 60 day rollover requirement contained in section 402(c)(3)(A) of the Code with respect to the distribution of Amount B.

Section 402(c) of the Code provides that if any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution, and the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and in the case of a distribution of property other than money, the amount so transferred consists of the property distributed, then such distribution (to the extent transferred) shall not be includible in gross income for the taxable year in which paid. Section 402(c)(3)(A) states that such rollover must be accomplished within 60 days following the day on which the distributee received the property. An individual retirement account (IRA) constitutes one form of eligible retirement plan.

Section 402(c)(3)(B) of the Code provides that the Secretary may waive the 60-day requirement under section 402(c)(3)(A) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.

Revenue Procedure 2003-16, 2003-4 I.R.B. 359, (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 402(c)(3)(B) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country, or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted is consistent with Taxpayer A's assertion that his failure to accomplish a timely rollover was a result of his inability to travel to the United States within 60 days to accomplish the rollover because of a need to care for his parents who were ill and particularly because of the stroke suffered by his father just prior the start of the 60 day roll over period. Taxpayer did not have an existing IRA in the United States and it was not possible to open an IRA in Country A.

Therefore, pursuant to section 402(c)(3)(B) of the Code, the Service waives the 60-day rollover requirement with respect to the distribution to you of Amount B from Plan A. Provided all other requirements of section 402(c) of the Code, except the 60-day rollover requirement, were met with respect to the transfer of Amount B to IRA X on May 31, 2012, such transfer will be considered a rollover contribution within the meaning of section 402(c)(1).

This ruling does not authorize the rollover of amounts that are required to be distributed under section 401(a)(9).

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No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations that may be applicable hereto.

This letter is directed solely to the Taxpayer A who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact \*\*\*\*\*, (ID# \*\*\*\* at \*\*\*\*\*. Please address all correspondence to SE:T:EP:RA:T3.

Sincerely yours,



Laura B. Warshawsky, Manager,  
Employee Plans Technical Group 3

Enclosures:

Deleted copy of ruling letter  
Notice of Intention to Disclose

cc: \_\_\_\_\_